

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

**TERRANCE O'RILEY AND GERALD O'RILEY,
APPELLANTS
vs.**

**U.S. BANK, N.A.,
RESPONDENT**

DOCKET NUMBER WD75307

DATE: SEPTEMBER 17, 2013

Appeal from:

The Circuit Court of Buchanan County, Missouri
The Honorable Daniel F. Kellogg, Judge

Appellate Judges:

Division One: Victor C. Howard, Presiding Judge, Joseph M. Ellis, Judge and Anthony Rex Gabbert, Judge

Attorneys:

Michael R. Ong, for Appellants

Mark M. Iba, for Respondent

MISSOURI APPELLATE COURT OPINION SUMMARY

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

TERRANCE O'RILEY AND GERALD O'RILEY, APPELLANTS

v.

U.S. BANK, N.A., RESPONDENT

WD75307

Buchanan County, Missouri

Before Division I: Victor C. Howard, Presiding Judge, Joseph M. Ellis Judge and Anthony Rex Gabbert, Judge

Terrance O'Riley and Gerald O'Riley (Beneficiaries) appeal the judgment of the trial court in favor of U.S. Bank, N.A. (Trustee) on their claims for breach of fiduciary duty. The judgment is affirmed.

AFFIRMED.

Division One Holds:

(1) Where substantial evidence was presented that Trustee's distribution decisions were the product of a thoughtful evaluation and review process and consistent with the terms of the trust and Missouri law and were not beyond the bounds of reasonable judgment, the trial court did not err in ruling that Trustee did not breach its duty of impartiality.

(2) Where substantial evidence was presented that Trustee complied with the standards of the Prudent Man Rule before 1996 and the Prudent Investor Act after 1996 in managing and investing the trust assets and that its decisions were not beyond the bounds of reasonable judgment, the trial court did not err in ruling that Trustee did not breach its duty to properly invest trust assets.

(3) Where the trial court did not find Trustee liable for actual damages, the trial court properly ruled that Beneficiaries were not entitled to punitive damages.

(4) Where Beneficiaries' claims against Trustee raised complex issues and required judicial resolution compelling Trustee to defend virtually the entirety of its twenty-five year administration of the trust, justice and equity required Trustee to recover the expenses it incurred; therefore, the trial court did not abuse its discretion in awarding attorney's fees costs, and expenses under section 456.10-1004. Additionally, Trustee's motion for attorney's fees incurred on appeal is granted.

Opinion by: Victor C. Howard, Judge

Date: September 17, 2013

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